UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/71/L/VEN
28 November 2000

ENGLISH
Original: SPANISH

HUMAN RIGHTS COMMITTEE
Seventy-first session

LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE THIRD PERIODIC REPORT OF VENEZUELA

(CCPR/C/VEN/98/3 and the revised core document (HRI/CORE/1/Add.3/Rev.1))

GE.00-46373 (E)

Constitutional and legal framework within which the Covenant and the Optional Protocol are implemented (art. 2)

1. Please describe the most significant changes in the field of human rights contained in the new Constitution of December 1999. The new Constitution establishes the Office of the People's Defender (Ombudsman). In this connection, please provide information on the functioning of the Office and the number of complaints received since it began to function.

2. Please explain the relationship which the National Human Rights Commission will have with the Ombudsman, in view of the fact that Presidential Decree No. 3,152 assigns the latter, inter alia, the duty of receiving and processing complaints of alleged human rights violations.

3. The Constitution states that one of the responsibilities of the President of the Republic is to issue law-ranking decrees, subject to authorization by an enabling act. Please explain whether there are constitutional or legal restrictions on such enabling acts; in what way the exercise of this responsibility is supervised; whether this provision has already been put into practice; and, if so, whether the enabling act permits the issue of decrees concerning human rights.

4. Please explain how the independence of the judiciary is safeguarded. Please provide information on the process and procedures for the suspension of judges and their removal from office, including members of the Supreme Court.

5. Please provide information on the cases in which the provisions of the Covenant have been directly invoked before State bodies (and particularly before the courts), have been referred to in judicial decisions or have been applied in precedence over contrary provisions in national legislation. What is the ranking of the Covenant in the domestic legal system?

States of emergency (art. 4)

6. Has the basic law referred to in the Third Transitional Provision, No. 2, on states of emergency been promulgated? If so, please explain what legal norms govern states of emergency in Venezuela in order to verify their compatibility with article 4 of the Covenant. If not, please explain how states of emergency in Venezuela are currently regulated.

Right to life, liberty and security of person, and to a fair trial with due safeguards (arts. 6, 7, 9 and 14)

7. Has the basic law referred to in the Fourth Transitional Provision of the Constitution on torture been promulgated?

8. Please describe the measures adopted to provide for compensation in cases of excessive use of force by the police or the armed forces, such as extrajudicial executions, disappearances, arbitrary detention, torture and other abuses. If these abuses have been investigated, please provide details of the investigations and of their outcomes, the trial proceedings, the sentences passed and the compensation awarded (paras. 63 and 107 of the report).

9. Please provide up-to-date information on the practice of torture, on any investigations there may have been into cases of torture and on the nature of the investigatory body. Please give the results of the investigations. What steps has the Government taken to combat and eliminate torture?

10. What changes have been made or are proposed to the Code of Criminal Procedure (Código Orgánico Procesal Penal) radically to reduce the period taken in the investigation stage of criminal proceedings (prior to the sentencing stage)? Does the State party propose to make this or any other changes to reduce the prison population, 75 per cent of which consists of detainees held prior to trial and sentencing.

11. Please describe the jurisdictional competence of the military courts and state whether they are competent to try civilians; please also explain the competence ratione materiae of those tribunals. What are the procedural safeguards in such cases?

Treatment of persons deprived of liberty (art. 10)

12. To what extent has the serious overcrowding existing in prisons and the poor conditions of imprisonment (including as regards health and violence) been corrected? What measures have been taken to enable prisons to respect the Standard Minimum Rules for the Treatment of Prisoners? Please describe the effectiveness of the measures taken to deal with violent riots in the prisons and of the training programmes for prison staff on human rights, and also to ensure reporting of ill-treatment in prison and the conduct of the appropriate investigations (paras. 172 and 186 of the report).

13. In the case of minors, what measures are taken, in regard to the procedures adopted and the conditions of detention, to take account of their ages and the desirability of promoting their rehabilitation?

Gender equality; protection of families and children (arts. 3, 23, 24 and 26)

14. Please provide information on the factors which prevent women from enjoying their rights on an equal footing. What practical effects has the Equal Opportunities for Women Act had for women with regard to equality of remuneration and employment? Has the National Office for the Protection of Women's Rights been established? What are its terms of reference (para. 28 of the report)? Are there provisions protecting women from sexual harassment at work?

15. Please provide up-to-date statistics concerning women's status in public- and private-sector employment and in education and elective office.

16. What powers do the civil or criminal courts have to provide protection and remedies in cases of domestic violence? Are domestic violence and rape within marriage punishable under Venezuela's new Code of Criminal Procedure? What programmes are in operation to train police officers to deal with cases of rape and violence within the home (para. 29 of the report)? Does marriage to the victim constitute grounds for discharge from criminal liability where a person is accused of rape?

17. Please explain to what extent age differences between men and women for purposes of marriage, restrictions on remarriage by a woman and the differences in the rules applicable respectively to men and women with regard to the acquisition of nationality through marriage are compatible with articles 3, 23 and 26 of the Covenant.

18. What concrete measures have been adopted to protect street children against violence and abuse on the part of the security forces and to promote their welfare? What measures are being adopted to protect children and young persons from sexual exploitation and trafficking in their persons (para. 114 of the report)? What measures have been adopted to prevent exploitation of child labour?

19. Please state the number of children in Venezuela (including indigenous and immigrant children) without identity documents and the measures taken to ensure that they can benefit on an equal footing from public education, health care or other social welfare services (paras. 363 and 367 of the report).

Interference with privacy and discrimination (arts. 17 and 26)

20. Please describe the legislation applicable to sexual relationships conducted in private between consenting adults of the same sex. What measures exist to prohibit discrimination against individuals on grounds of their sexual orientation?

Rights of people belonging to minorities (arts. 26 and 27)

21. What measures are being adopted to enable indigenous communities to benefit on an equal footing from health services and education in their own language and to participate in decisions relating to their lands, and to activities such as mining and forestry, which affect the enjoyment of their own culture, including their traditional pursuits (paras. 408-414 of the report)? What is being done to give them access to the judicial system through the intermediary of trained interpreters?

Dissemination of information relating to the Covenant (art. 2)

22. Please provide information on the education and training programmes on the Covenant and its Optional Protocol for public officials, teachers, judges, lawyers and police officers.

23. Please state what measures have been taken to disseminate information on the submission of the third periodic report and its consideration by the Committee.